

April 8, 2014

Connect for Health Colorado
Ms. Marcia Benshoof
3773 Cherry Creek North Drive
Suite 1025
Denver, Colorado 80209

RE: Connect for Health Colorado and Separate Legal Structure

Dear Ms. Benshoof:

Thank you for providing me with the information and background relevant our discussions.

I have reviewed: (i) Colorado's Health Benefit Exchange Act at CRS §10-22-101 *et seq.* (as amended by HB13-1245)(see specifically, CRS §10-22-106(3)¹; (ii) a Center for Medicare & Medicaid Services publication regarding ancillary products and services and Exchanges dated March 29, 2013; (iii) presentation materials to the Connect of Health Colorado Board regarding ancillary products and services; and (iv) Colorado's Public Benefit Corporation Act (CRS §7-101-501 *et seq.*).

Further, you described to me several shared services opportunities with the State and the desire for Connect for Health Colorado to consider the addition of ancillary and other value add products to the insurance marketplace.

You have asked two questions with respect to the operation of Connect for Health Colorado in the context of the provided information.

1. Whether additional Colorado legislative changes would be necessary for Connect for Health Colorado to implement a process to accept non-federal funding and offer or administer non-qualified health plan products and services?

Based upon my review of the enabling legislation for Connect for Health Colorado (as amended by HB13-1245) it is my opinion that additional legislative measures are not needed. The Board for Connect for Health Colorado is specifically tasked with "considering the unique needs of rural Coloradoans" with respect to "access, affordability and choice." Further, the Board is empowered to "investigate options" and may "create a separate program...to offer ancillary products."²

2. Whether Connect for Health Colorado could own a separate and distinct legal entity in the form of a Colorado Public Benefit Corporation to receive funding outside of the carrier assessments for QHPs for the purpose of administering shared services programs with the State and offering ancillary products and services, creating revenue, and segregating state-sourced funds from federally-sourced funds?

¹ "The board may create a separate program that shares resources and infrastructure with the exchange to offer ancillary products."

² CRS §§10-22-106(1)(i), (k) and (3).

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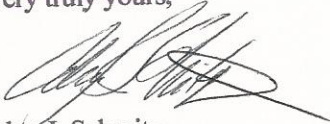
A legally and publically distinct entity is required to offer non-QHP and ancillary services and products. A Colorado Public Benefit Corporation, as an entity intended to produce a public benefit balanced with the pecuniary interests of its shareholder(s), appears to be an ideal organizational structure. Use of a legally and publically distinct entity would further enable a clear segregation of state-sourced and other revenue related funds from federally obtained funds and promote transparency in the operation of Connect for Health Colorado.

Further, Connect for Colorado's is clearly defined as "an instrumentality of the state" pursuant to CRS § 10-22-104. This is important in that a "special purpose authority" that is created pursuant to state law to serve a valid public purpose, which is an instrumentality of the state and is not subject to administrative direction by any department, commission, bureau, or agency of the State of Colorado is permitted to establish a new corporate entity under the authority of C.R.S. 24-1-107.5.³

These conclusions are based upon my review of the noted materials at this point in time.

I look forward to working with you and with Connect for Health Colorado.

Very truly yours,



Alan J. Schmitz

³ CRS §24-1-107.5(5) provides that a state level authority may create a nonprofit entity with advance notice to the Office of the State Auditor.